"A" Collection.

App. F. IX-4

Previous References

1938.
(Legis)

File No. 28 83
Serial Nos. 1

Letter References

(57)

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. one only.

Part ~~B~~ for March, 1939.

SUBJECT.

Promulgation into Law of the Bill to amend the Mysore Limitation Act, 1911.

8(1) To The Compiler, Laws.
No. P.4369 of 24.2.39.
Ordered that the act be published as Act No. II of 1939, in the Mysore Gazette.

WD 0295—GPB—22,500—18-8-37

Virgin Nazareth
15/3/39.

7270

Serial No.

From

The Govt Advocate

D.O. No 339 Dt 8.11.37

Suggests Certain ~~amendments~~ amendments to the Immovable Regulation

Fin N

1/ Reference is invited to the Statement of General principles of the Bill to Amend the Limitation Regulation recently placed before the R.A.

Submitted for orders

CGA 11/11

2 The Govt. Advocate has raised the desirability of amending Art 11 of the Limitation Regn. so as to make it applicable in all cases of claim proceedings, not only in cases where final orders are passed.

3 In the original Bill framed in 1909 the Art was similar to that

H/T

NOTE—Contn. Sheet.

WD 0284—GPB—30,000—13-8-37

2

File No. of 193 . General and Revenue Secretariat

Mr. Br. Smith. But the changes were made by the Select committee so as to be in keeping with the existing case law on the point. The

(4) In 15 Mn. C. C. Reports p. 223 the High Court held that the special period of limitation of one year applies only to those cases where the circumstances are such as to warrant in saying that there was an investigation into the merits of the claim If not, the order is not conclusive and the plaintiff has the ordinary period within which to bring the suit.

5 The wording of Art. 11 is in accordance with the decision

6 One result of this may be that claim proceedings

Serial No.

may be unnecessarily delayed by allowing the application to be dismissed for default with costs. The costs may not be much as pointed out by the Govt Advocate. 7 Of the two alternative amendments suggested by the G. A. the second specifies the provisions of the C. P. C. under which suits may be brought. In the Act of 1908 the provision was made general avoiding reference to specific provisions of the C. P. C.

8 The amendment suggested by the G. A is a new one and was not contemplated in the Bill whose principles were placed before the R. A. It is doubtful if it would be in order to include this amendment in that Bill now

NOTE—Contn. Sheet.

WD 0284—GPB—30,000—13-8-37

4.

2796

File No. of 193 | General and Revenue Secretariat

If the result of the difference in the wording of the Act was delay in the disposal of claim proceedings, no recommendation has been made so far by the High Court in the matter nor was the point considered by the Laws Delays Commission.

This amendment may perhaps be kept in view and taken up when the Limitation Regn is amended next time

Subd. for orders

Sd 17/11/37

ordered to be put up on Dec.

Sd Sub R CAL 6th Dec

9 Resubd. for orders.

Sd 7/12/10 As previous occasions the High Court was consulted in regard to such amendments of the Limitation Regn. If approved the view of the High Court may be ascertained before taking any steps. The letter of

2798 5

Amendment to Licensing Regulations

General and Revenue Secretariat — Legs File No. — of 193 — [App. F. III—2

Serial No.

of the Govt Advocate may be sent to the High Court for opinion. The point raised is a Constitutional one and the existing practice is in accordance with the decision of the High Court in 15 Myso CC 1223

Gen Secy 11/12 for perusal. This will be done by 8/12

SECRETARY. 8 DEC. 1937

OFFICE OF THE FIRST MEMBER OF COUNCIL DEC 9 1937 No. 3334

First Member 12) 10/12 and copy by 10.12

TYPING SECTION. 13 DEC 1937 GEN'L & REV. SECTT.

13) Send with the enclosures to Registrar High Ct 14) Done by 11/12.

SG 10/12

MP 3082 of 14/12 to Registrar High Ct enclosing for the views of the Judges in the matter

NOTE—Contn. Sheet.

WD 0284—GPB—30,000—13-8-37

6

4887

Amendment of Art 376-D of Limitation Act.

File No. of 193 | General and Revenue Secretariat

No 662 Dy 21/12 from Registrar High court calling for copy of the Bill & Statement of general principles.

15) Submitted a draft for amendment

SC 23/12

16) Issued. 23/12

Issued No P 3364 Dy 4/1 ✓ Encl A

No D, Dis 213 Dy 17/1 from Registrar High Court stating that the Judges generally agree with the Govt. Advocate's proposals.

17 Submitted for orders with reference to paras 11 & 12

SC 23/2/38

18 The High Court is agreeable to the proposed amendment of Sec 11 of the Limitation Act as suggested by the Govt Advocate

The latter has proposed amendment in 2 alternative ways viz 1) by leaving article 11 & Sec article 11 A as they are now save only omitting a few words now in Sec 11

2) by Court combining & Articles 11 & 11 A

Amendment of Article 11
Limitation Act

7

General and Revenue Secretariat — File No. — of 193 — [App. F. III—2

Serial No.

into 1 article & omitting 11A. The majority of the Judges & the High Court agree to the combination of Art 11 & 11A into one but they do not approve of the wording suggested by the Govt Advocate in his letter to effect this.

19 one of the Judges drawn that Art 11 & 11 should be kept distinct as in British India & only Art 11 to be suitably amended.

We I would think it would be better to retain arts 11 & 11A separately as suggested by the drawing Judge. We will have one Act in conformity with that of British India. The wording of 2 articles will be clear and will not give room for conflict of decisions. The 11 only will be amended and a draft bill with a statement of objects & reasons has been submitted with the proposed amendment for approval. Notice is gained by combining 2 articles into one one

Gen Secy)

GENERAL SECRETARY
2 MAR. 1938
4965

5802/3.3.38

First Member)

NOTE—Contn. Sheet.

WD 0284—GPB—30,000—18-9-37

8 1253.838 P 4887

Limitations (Amendments) Bill

File No. of 193 | General and Revenue Secretariat

23) This bill has been held up as there were too many bills for the previous Session & approved. This may be placed before the next R.A.V.C. & introduced into the L.C as per course (Leader / 1st member) The bill & the statement of objects & reasons are for approval. hg 22.7

DEWAN'S OFFICE 27 JUL 1938 1277

VH JSK 28/7

hg 28.7.38

24 Subm. with a statement of general principles. This is a council matter. 24

25/8/38 No printed & typed copies

hg 9.8

Typing Section

VH Typed draft subm.

29/8/38.

28 Statement of Gen principles is for approval.

29 The introduction & the bill is a Council matter. This may perhaps be disposed of by circulation.

Gen Chief Secy) hg 1878, hg 30.8

1st Member) 30) JSK 29/8

Dewan) CB. MS 24/8 31) MW 22-8-38 hg 23/8, hg 23.8

1660 1966

TYPING SECTION 9 AUG 1938 GEN. SECTT.

GENERAL SECRETARY. 13 AUG. 1938 8188

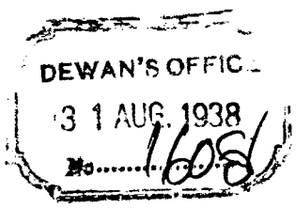
9

For Disposal by Circulation. No. C. 75

9 1938

GENERAL AND REVENUE SECRETARIAT.

Council Matter.



Subject

Bill to amend the Limitation Act.

32

Circulated to the Members of Council.

By Order,

Chief Secretary to Government.

23rd August 1938.

33

First Member of Council. (Seen)

34

1277
25.8.38

Second Member of Council. Seen
26/8/38

34

2273
27/8 For favour of final note.
First Member.)

MS
27.8.38

35 S. N. put up.

MS
21.8.38

DEWAN)

10

Final Note by the First Member of Council.

Subject.—

Bill to amend the Limitation Act.

26) Article 11 of the Limitation Act provides for the period of limitation for suits to establish one's right to property attached in execution of a decree. But this Article as it stands applies only to cases where orders have been made after investigation of the claim preferred. A good deal of controversy has arisen over the meaning of the word "investigation". A Claimant whose claim is not investigated has an advantage over another whose claim is investigated, as the period of limitation for filing suits in the case of the former to establish his right is much longer than that of the latter. Many a time the claimant acts on behalf of the judgment-debtor and this distinction has led to impeding the progress of the execution proceedings. In British India no such distinction is made. Article 11 is made applicable to both kinds of claims and they are treated alike. In this Bill it is proposed to take away the distinction between the claim after investigation and the claim without investigation and apply the short period of limitation to both.

37) This proposal has been agreed to by the Dewan and the Second Member of Council and I solicit the gracious sanction of His Highness to place the general principles of the Bill before the Representative Assembly in its Dasara Session and to introduce the Bill in the Legislative Council in due course.

Sd/- Sheshagiri Iyer

MEMBER OF COUNCIL.

Bangalore,
31st August 1938.

11

Submitted to His Highness.

36

I submit herewith a Final Note by the First *Member of Council on the subject of* the Bill to amend the Limitation Act

for His Highness' gracious approval.

Bangalore,
31st August 1938.

Mirza M. Ismail
Dewan.

12

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Bill to amend the Limitation Act.

Ch. ? key
MS
4-9-38

NO. 148

39)

Order.

~~KRW~~
3/9/38

MS
5-9-38

General and Revenue
Secretariat.

4887 C75 17

SUBJECT:—

Bill to amend the Limitation Act.

(*)

31. All urgent or confidential files returned with His Highness' orders may in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at Headquarters and then sent to the Secretariat concerned for the issue of orders.

40) Circulated to Members of Council for perusal of His Highness' orders before / after issue of orders. (*Vide* Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

Chief Secretary to Government.

Through the Secretary to Government,
General Department. 6/9

41)

2658/65

FIRST MEMBER OF COUNCIL.

6/9

1716/6.9.38

SECOND MEMBER OF COUNCIL.

6/9/38

Gen. Secy. with Compliments

6/9

7/9

7.9

NOTE.—Contn. sheet.

WD 1467—GPB—500—23-2-38

Bill No. II. 1306/836

Bill to Amend Limitation Act

General and Revenue Secretariat | File No. of 193 . 4/28 | [App. F. III–2

Serial No.

3.3.38 H.G.R

for Secretary H.G.R

TYPING SECTION. 9. SEP. 193 GENL & REV SECTT.

R.A Secs.

43) Vide Regd 26.2.38 / Submitted for orders if copies of the St. of general principles may be made over to the R.A office.

Sec 7/9. 7/9

To R.A office with typed copies of the St.

Sec 9/9. 44) 3 copies taken & file returned. L.K.R 9.9.38

45) The statement of general principles was accepted by the R.A

46) Submitted for orders if the Bill may be published under rule 8 of the rules of business

Sec 26/10/38.

47) It appeared, This will be published under rule 8 of the Rules of Business

1st Member & Secretary

L-C 4/11 B.1,

48) 4/11

49) 4-11-38 5/11

4390 3/11.

NOTE—Contn. Sheet.

5.11

15

D781/2.c

1306

Liquor Control Bill

File No. of 193

General and Revenue Secretariat

Serial No.

20. L.C. to forward with 3 copies of the Bill as set out in reasons.

7/11/38.

(1) Three copies of the Bill taken and the file put to Prot. Br.)

7.11.38 Protocol

7.11

(2) The Bill has been published. It is a small Bill consisting of only one amendment, and the principle is accepted it may not be necessary to refer the Bill to a select committee.

(3) The following motions are suggested for orders.

(a) motion that the Bill be read in Council.

Mover:- Prime Minister

Seconder:- Govt. Secy.

(b) motion that the rules of business and standing orders be suspended and the Bill be taken into Council on motion without reference to a select committee.

Mover:- Prime Minister

Seconder:- Govt. Secy.

OFFICE OF THE SECRETARY
7 NOV. 1938
REPRESENTATIVE ASSEMBLY AND LEGISLATIVE COUNCIL

D. Lords Bill
Limitation Bill

16

Serial No.

(1) Motion that the Bill be passed
Moved: First Member
Seconded: Agent Lucy

53) There may not be any opposition to the Bill
The above motions may be opposed
(2nd member)

54/4/1/39. BDM

hsg
5.1.39

54) NIL
5/1/39
hsg
6/1

L.e. opinion for note & return.

55) Noted & returned.
BDM Proty Sy
10.1.39 & 11.1.39.

56) The Bill was passed by the L.C. at its recent session.
a draft Final note is submitted for orders.
(2nd Member)
BDM 1.2.39.

hsg
1.2.39

57) Signed J.N. is kept below

58) Send with J.N.
(Dewan)
2/2/39 BDM 2

hsg
2.2

OFFICE OF THE FIRST MEMBER OF COUNCIL
JAN 5 1939
No 53 go

OFFICE OF THE SECRETARY
LEGISLATIVE ASSEMBLY
AND
EXECUTIVE COUNCIL

OFFICE OF THE FIRST MEMBER OF COUNCIL
FEB 2 1939
No 1695

DSM 2nd 14
32/51
1

NOTE—Contn. Sheet.

WD 0544—GPB—30,000—2-9-83

17

Final Note by the First Member of Council.

Subject.—

Promulgation into law of the Bill to amend the Mysore Limitation Act, 1911.

His Highness was graciously pleased to accord sanction on the 3rd September 1938 to the introduction of the Bill to further amend the Mysore Limitation Act, 1911. The general principles of the Bill were placed before the Representative Assembly during the Dasara Session of 1938 and were accepted by it. The Bill was thereafter introduced in the Legislative Council at its recent session and passed by it.

I solicit the gracious sanction of His Highness to promulgate the Bill into law.

N Madhava Rau

MEMBER OF COUNCIL.

Bangalore,
2nd February 1939.

Submitted to His Highness.

61) I submit herewith a Final Note by the First Member of Council on the subject of the promulgation into law of the Bill to amend the Mysore Limitation Act, 1911, for His Highness's gracious sanction.

Camp: Jog,
5th February 1939.

Mirza M. Ismail
DEWAN.

19

Record of Cases submitted for the Orders of

His Highness the Maharaja.

Subject.

Promulgation into law of the Bill to amend the Mysore Limitation Act, 1911.

Ch. Sec'y

No. 543

Order.

~~KRW~~

7/2/39

MK

9.2.39

20

H. H 54

General and Revenue
Secretariat.

SUBJECT:—

Promulgation into Law of the Bill to amend the Motor Limitation Act, 1911

(*)

31. All urgent or confidential files returned with His Highness' orders may in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at Headquarters and then sent to the Secretariat concerned for the issue of orders.

63)

Circulated to Members of Council for perusal of His Highness' orders before/after issue of orders. (*Vide* Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

Chief Secretary to Government.

Through the Secretary to Government,

.....Department.

64

6399
9.2.39

FIRST MEMBER OF COUNCIL. 9/2/39

65

7314
10.2.39

SECOND MEMBER OF COUNCIL. 10.2

Prolin
10/2

10.2

NOTE.—Contn. sheet

WD 01152—GPB—750—21-12-38

Limitation Act (amendment) Bill.

General and Revenue Secretariat | Leg. File No. 28 of 1938. | [App. F. III—2

Serial No.

66) This Bill received the gracious sanction of His Highness on the 7th February 1939.

67) A draft G.O. directing the Publication of this Act as Act no II of 1939 is submitted

Sec 11.2.39. MW Gen Secy)

68) Leg 11-2-39

69) circue Leg 12.2.39

GENERAL SECRETARY. 11 FEB. 1939 2698

Issued G.O. no P 4369 dated 14.2.39 directing Publication as Act II of 1939

A Rec 11.3.39

NOTE—Contn. Sheet.

WD 0544—GPB—30,000—2-9-38.

Bill further to amend the Limitation Act.

- - - - - -

Whereas it is expedient further to amend the Mysore Limitation Act, 1911; It is hereby enacted as follows:-

In the first column of Article 11 of the First Schedule to the Mysore Limitation Act, 1911, omit the words "after an investigation of" and substitute the word "on" in their place.

--- - - - ---

Statement of Objects and Reasons.

In British India a suit by a person against whom an order has been made under the code of the Civil Procedure on a claim preferred to or an objection made to the attachment of property attached in execution of a decree is one year from the date of the order whether the order in question was passed after investigation or not. But in Mysore a difference exists between an order passed after an investigation and an order passed without investigation. In the case of the former the short period of limitation prescribed under Art. 11 applies ~~whereas the usual period~~ (where as the usual period) of limitation for establishing title to property, viz., 12 years applies in the case of the latter. From this it is seen that the orders in cases of claims or objections where there was investigation became conclusive after one year if no suit was filed to set aside such an order by the unsuccessful party where as in the other case where there was no investigation, the order was not conclusive at all.

A claimant or objector who puts forward

27

his claim or objection and interferes with execution proceedings and then does not take step to have his claim investigated is in a better position than the one who gets his claim investigated. Very often the claimants will be acting on behalf of the judgement-debtor to impede the progress in the realization of the decree amount. There is no reason to treat the 2 claimants differently. In British India both kinds of claimants are treated alike, whether there is any investigation or not. In such a proceeding, the unsuccessful party has to bring a suit within one year from the date of the order. It is now proposed to amend ~~the~~ Art 11 of the Limitation Act to bring it on a line with the law in British India and to omit the ~~distance~~ direction now existing. It is also convenient that our law should be simil to British Indian Law as far as possible

hg

3/3/38

Amd. B para 25

24

Statement of general principles of the Bill to amend the Limitation Act.

Article 11 of the Limitation Act provides for the period of limitation for suits to establish one's rights to property attached in execution of a decree. The policy of the Act is to secure speedy settlement of questions of title raised in execution proceedings. ~~That is why~~ So a period of one year is fixed as the time within which ~~the~~ such suit is to be brought. But ~~as~~ the Article as at present worded, ~~there is likely to be~~ a omission of delay in the disposal of ~~property~~ title to attached such cases ~~For the order on~~ such claim petitions as orders ~~must have been~~ are required to be made after "investigation." The term "investigation" has given rise to different interpretations. ~~Some say~~ One view is that "after investigation" means after evidence is recorded ~~while some others hold~~ and another view that if the case is posted for evidence ~~and then~~ dismissed even for default ~~the order is~~ would make the order as issued after investigation though no witnesses ~~need~~ have been examined. Further, claim petitions may be filed without any seriousness idea of pursuing them or they may be allowed to drag on delaying the passing of orders "after investigation" ~~This leads to unnecessary delay. With a view~~ To avoid these difficulties it is proposed to omit the words "after investigation" in this Article. ~~It~~ This will also bring the law into line with that in British India.

13.8

SG

Ind 1875

STATEMENT OF GENERAL PRINCIPLES OF THE BILL TO AMEND THE LIMITATION ACT.

*****

Article 11 of the Limitation Act provides for the period of limitation for suits to establish one's right to property attached in execution of a decree. The policy of the Act is to secure speedy settlement of questions of title raised in execution proceedings. So a period of one year is fixed as the time within which such suit is to be brought. But the article as at present worded admits of delay in the disposal of such claim petitions as orders are required to be made after "investigation". The term "investigation" has given rise to different interpretations. One view is that "after investigation" means after evidence is recorded and another view that if the case is posted for evidence and dismissed even for default would make the order one passed after investigation though no witnesses have been examined. Further, claim petitions may be filed without any serious idea of pursuing them or they may be allowed to drag on delaying the passing of orders "after investigation". To avoid these difficulties it is proposed to omit the words "after investigation" in this Article. This will also bring the law into line with that in British India.

Statement of general principles of the Bill to amend the Limitation Act.

Article 11 of the Limitation Act provides for the period of limitation for suits to establish one's right to property attached in execution of a decree. The policy of the Act is to secure speedy settlement of questions of title raised in execution proceedings. So a period one year is fixed as the time within which such suit is to be brought. But the Article as at present worded admits of delay in the disposal of such claim petitions as orders are required to be made after "investigation". The term "investigation" has given rise to different interpretations. One view is that "after investigation" means after evidence is recorded and another view that if the case is posted for evidence and dismissed even for default would make the order once passed after investigation though no witnesses have been examined. Further, claim petitions may be filed without any serious idea of pursuing them or they may be allowed to drag on delaying the passing of orders "after investigation". To avoid these difficulties it is proposed to omit the words "after investigation" in this Article. This will also bring the laws into line with that in British India.

are before 43

Bill further to amend the Limitation Act.

By

Whereas it is expedient further to amend the Mysore Limitation Act, 1911; It is hereby enacted as follows:-

In the first column of Article 11 of the First Schedule to the Mysore Limitation Act, 1911, omit the words "after an investigation of" and substitute the word "on" in their place.

Statement of Objects and Reasons.

In British India a suit by a person against whom an order has been made under the code of the Civil Procedure on a claim preferred to or an objection made to the attachment of property attached in execution of a decree is one year from the date of the order whether the order in question was passed after investigation or not. But in Mysore a difference exists between an order passed after an investigation and an order passed without investigation. In the case of the former the short period of limitation prescribed under Article 11 applies whereas the usual period of limitation for establishing title to property, viz., 12 years applies in the case of the latter. From this it is seen that the orders in cases of claims or objections, where there was investigation, became conclusive after one year, if no suit was filed to set aside such an order by the unsuccessful party whereas in the other case, where there was no investigation, the order was not conclusive at all.

A claimant or objector who puts forward his claim or objection and interferes with execution proceedings and then does not take step to have his claim investigated is in a

in a better position than the one who gets his claim investigated. Very often the claimants will be acting on behalf of the judgment-debtor to impede the progress in the realization of the decree amount. There is no reason to treat the 2 claimants differently. In British India both kinds of claimants are treated alike, whether there is any investigation or not. In such a proceeding, the unsuccessful party has to bring a suit within one year from the date of the order. It is now proposed to amend Article 11 of the Limitation Act to bring it on a line with the law in British India and to omit the distinction now existing. It is also convenient that our law should be similar to British India Law as far as possible.

29

VII. General Principles of the Bill to amend the Mysore Limitation Act.

The SECRETARY to GOVERNMENT, LEGISLATIVE DEPARTMENT (Mr. M. Venkatesa Iyengar.) explained the general principles of the bill as follows:-

Mr. S. MALLAIAH in supporting the measure, said that it was a very desirable step to take. He said that Article 11 of the Schedule of the Act as in force in British India fixed the period of limitation at one year after the date of passing of order - whether this was an ex-parte order or an order passed after due investigation. In Mysore, however, the article applied only to cases in which claims were disposed of after the investigation. But 'investigation' involved the examination of witnesses etc.,which would necessarily take a long time. It had been held by certain courts all these process ought to be gone through, irrespective of the time taken and they calculated the period from the date on which the examination of witnesses etc., concluded. But Courts had also held the view that in cases where an application was dismissed without any enquiry, the period ought to be calculated as one year from the date of such order. In such cases there was the difficulty of the litigant public since all claims would have to be proved before the execution proceedings were disposed of, and this involved much delay. Personally, therefore, he suggested that if the Bill was passed, it would be stipulated that the period in question would mean one year from the date of order and avoid needless delay.

The general principles of the bill were accepted.

NOTIFICATION.

No. 88—*L. C., dated 29th September* 1910.

Under Rule 40 of the rules for the conduct of business of the Mysore Legislative Council, the accompanying report of the Select Committee on the Mysore Limitation Bill is published for general information with a list showing the amendments effected by the Select Committee therein.

By Order,
S. HIRIYANNAIYA,
Secretary, Mysore Legislative Council.

Report of the Select Committee on the Mysore Limitation Bill.

We, the members of the Select Committee appointed for the consideration of the Mysore Limitation Bill, have the honor to submit the following report to the Council.

We have considered the Bill and beg to recommend that it be passed with the few changes made by us.

THE FIRST SCHEDULE.

Article 11.

We have slightly recast the wording of this article and have inserted words so as to make the article applicable only to cases where claims have been disposed of *after investigation.* This is in accordance with the existing case law on the point.

Article 12.

The reference to "a Patni Taluk" is considered unnecessary as no such tenure is in vogue in the State. Clause (*d*) and the explanation thereto have accordingly been omitted.

Articles 15 and 16.

We have omitted Article 15, as no such suit as is contemplated therein can lie against the Government. Article 16 seems to provide for some of the cases coming under Section 222 (*a*) of the Mysore Land Revenue Code. It is desirable that provision should be made for all the cases falling under that sub-clause. We have therefore changed Article 16 as follows:—

First column.	*Third column.*
Against Government, under Section 222 (*a*) of the Mysore Land Revenue Code.	When the claim or payment is made.

Articles 33, 34 and 35.

The two latter articles have been separately enacted in British India to make up for the deficiency in the numbering that occurred owing to the omission of the two previously existing articles, namely, those relating to suits for the recovery of a wife and for the restitution of conjugal rights. We have thought it better to include all the cases provided for in the three articles in a single article as follows:—

"33. Against an executor, administrator or other representative of a deceased person for wrongs done by such person, where the executor, administrator or other representative is by law liable."

Articles 111, 112 and 121.

We have made certain verbal changes in these articles and have also, for the reasons stated for the change in Article 12, omitted the reference to "Patni Taluk" in Article 121.

Article 122.

As no suits can be instituted in Mysore on a judgment obtained in Mysore, we have omitted from this article the words "a judgment obtained in the territories of Mysore, or."

Article 152.

We have added the words "or a Subordinate Judge" after the words "a District Judge" in this article, so as to provide a rule of limitation for cases where appeals lie direct to the Court of a Subordinate Judge under any order that may be passed by Government under Section 14 of the Mysore Civil Courts Regulation.

Article 166.

This article as originally framed applied to all cases of applications for setting aside a sale in execution of a decree. It was brought to our notice by the Chief Court that such a wide provision may lead to hardship in certain cases, as for instance when a judgment-debtor who has had no notice under Section 248 of the existing Civil Procedure Code seeks to have the sale conducted behind his back set aside. Under the existing law, he would have three years' time to apply, but under the article in the Bill he would have to make the application within thirty days. We have therefore limited the scope of this article so as to make it applicable to those cases only to which a period of thirty days or sixty days now applies (cases falling under Articles 166 and 172 of the existing Limitation Act). We are of opinion that cases of fraud should continue to be subject to a rule of three years as under the existing law of limitation.

As under the General Clauses Regulation, the word "Mysore" has been defined to be "the territories of Mysore" we have substituted the former for the latter expression wherever it occurs.

As no changes of an important character have been made by us in the Bill, we consider it unnecessary to republish it.

A list showing all the amendments effected by us is appended

29th September 1910.

H. V. NANJUNDAYYA
S. NARAYANA RAO.
C. SRINIVASIENGAR.
A. RAMANNA.

List of changes made by the Select Committee on the Mysore Limitation Bill.

[*N. B.*—The portions in square brackets are those deleted by the Select Committee and those in italics newly added.]

Clause I (2).

"It extends to the whole of [the territories of] Mysore; and"

Clause 2.

(6) "foreign country" means any country other than [the territories of] Mysore:

Clause 11.

Suits on foreign contracts.

"(1) Suits instituted in [the territories of] Mysore on contracts entered into in a foreign country are subject to the rules of limitation contained in this Regulation.

(2) No foreign rule of limitation shall be a defence to a suit instituted in [the territories of] Mysore on a contract entered into in a foreign country, unless the rule has extinguished the contract and the parties were domiciled in such country during the period prescribed by such rule."

Clause 13.

Exclusion of time of defendant's absence from [the territories of] Mysore.

"In computing the period of limitation prescribed for any suit the time during which the defendant has been absent from [the territories of] Mysore shall be excluded."

Clause 19.

* * * * *

(2) Where the writing containing the acknowledgment is undated, oral evidence may be given of the time when it was signed; but, subject to the provisions of the Indian Evidence Act, 1872, as [applicable] *applied* to Mysore, oral evidence of its contents shall not be received.

* * * * *

Clause 29.

Nothing in this Regulation shall—

"(*a*) affect the Indian Contract Act, 1872, Section 25, as [applicable] *applied* to Mysore;

Savings.

(*b*) affect or alter any period of limitation specially prescribed for any suit, appeal or application by any special or local law now or hereafter in force in [the territories of] Mysore."

Clause 30.

Provision for suits for which the period prescribed is shorter than that prescribed by the Indian Limitation Act, 1877, as [applicable] *applied* to Mysore.

"Notwithstanding anything herein contained, any suit for which the period of limitation prescribed by this Regulation is shorter than the period of limitation prescribed by the Indian Limitation Act, 1877, as [applicable] *applied* to Mysore, may be instituted within the period of two years next after the passing of this Regulation, or within the period prescribed for such suit by the Indian Limitation Act, 1877, whichever period expires first.

THE FIRST SCHEDULE.

2. For compensation for doing or omitting to do an act alleged to be in pursuance of any enactment in force for the time being in [the territories of] Mysore.	* * * *	
11. By a person against whom [any of the following orders] *an order* has been made *under the Code of Civil Procedure after an investigation of a claim preferred to, or an objection made to the attachment of, property attached in execution of a decree,* to establish the right which he claims to the property comprised in the order. [Order under the Code of Civil Procedure on a claim preferred to, or an objection made to the attachment of, property attached in execution of a decree.]	One year.	The date of the order.
12. To set aside any of the following sales:— (*a*) Sale in execution of a decree of a Civil Court; (*b*) Sale in pursuance of a decree or order of Deputy Commissioner or other officer of revenue; (*c*) Sale for arrears of Government revenue, or for any demand recoverable as such arrears [;]. [(*d*) Sale of a Patni Taluk sold for current arrears of rent. *Explanation.*—In this article, "patni" includes any intermediate tenure saleable for current arrears of rent.]	* * * *	
[15. Against Government to set aside any attachment, lease or transfer of immovable property by the Revenue authorities for arrears of Government revenue.]	[One year.]	[When the attachment, lease or transfer is made.]

16. [Against Government to recover money paid under protest in satisfaction of a claim made by the Revenue authorities on account of arrears of revenue or on account of demands recoverable as such arrears.]	One year.	When the *claim or* payment is made.
Against Government under Section 222 (a) of the Mysore Land Revenue Code.		
33. [Under any law for the time being in force enabling executors, administrators or representatives to sue and be sued for wrongs done to or by a person deceased against an executor.]		
[34. Under the same law against an administrator.]		
[35. Under the same law against any other representative.]		
Against an executor, administrator or other representative of a deceased person for wrongs done by such person, where the executor, administrator or other representative is by law liable.	Two years.	When the wrong complained of is done.
87. By the assured to recover premia paid under a policy [avoidable] *voidable* at the election of the insurers.		
103. By a Muhamadan for exigible dower ([Mu'wajjal] *Mu'ajjal*)		
111. By a vendor of immovable property [for personal payment of] *to enforce personal liability for* unpaid purchase money.		
112. For a call by a company registered under any [Statute or Act or Regulation] *law in force.*		
121. To avoid incumbrances or under-tenures in an entire estate sold for arrears of Government revenue [or in a patni taluk] or *in* other saleable tenure sold for arrears of rent.		
122. Upon [a judgment obtained in the territories of Mysore, or] a recognizance.	Twelve years.	The date of the [judgment or] recognizance.
152. Under the Code of Civil Procedure to the Court of a District Judge *or a Subordinate Judge.*		
166. Under the same Code to set aside a sale in execution of a decree *on the ground of irregularity in publishing or conducting the sale or on the ground that the decree-holder has purchased without the permission of the Court or on the ground that the person whose interest in the property purported to be sold had no saleable interest therein.*		
182. For the execution of a decree or order of any Civil Court not provided for [by Article 183 or] by Section 48 of the Code of Civil Procedure.		

THE SECOND SCHEDULE.

1877	XV	... The Indian Limitation Act, 1877, as [extended] *applied* to Mysore by the Government of India Notification, Foreign Department, Judicial No. 174—J., dated the 26th October 1877.	The whole.
1879	XII.	... The Registration and Limitation Acts Amendment Act, 1879, as [introduced into] *applied to* Mysore by the Government of India Notification No. 320, dated 19th November 1879.	The whole of Section 3.

* * * * *

been allowed to set up, establish, or continue, any such market, shall on conviction by a magistrate be punished with fine which may extend to Rs. 500 and in case of a continuing breach of the provisions of Section 17, with fine which may extend to Rs. 100 for each day after the first, during which the breach continues.

19. *Offences to be triable only by a First Class Magistrate.*—(i) No offence under this Act or under any rule made under Section 6 or under any bye-laws made under Section 7 shall be triable by a Magistrate other than a Magistrate of the First Class.

(ii) All fines and damages recovered from an offender shall be paid to the market committee.

(iii) Prosecutions under this Act may be instituted by any person duly authorised in writing by the market committee or by an officer designated by Government in this behalf.

20. With the previous sanction of the Government which may be accorded by general or special order, the ..... of the district may, by an order in writing, delegate to any executive officer, not below the rank of a ....., all or any of his powers or duties under this Act or the rules framed thereunder ....

VI. General Principles of the Tea Control Bill.

In accordance with an international scheme for restricting the production of tea, the Indian Tea Control Act, 1933 was enacted in British India. In conformity with that scheme, expansion of tea cultivation in Mysore was restricted by Notification No. Camp D. 46—A. & E. 219-33-16-F., dated 19th June 1934. That scheme expired both in British India and Mysore on 31st March 1938. On the agreement of the representatives of the Tea Industry, the scheme has been extended for a further period of five years and the Indian Tea Control Act, 1938, has been passed. The operation of the scheme has also been extended in Mysore by Notification No. D. 8535—A. & E. 80-37-4, dated 7th May 1938. In order that the tea estates in Mysore may be able to procure export licences from the Committee constituted under the Indian Tea Control Act, 1938, to the extent of their quota based on the crop basis, it is necessary to pass a legislative enactment providing for the control of export of tea from and for the control of the extension of the cultivation of tea in the State.

It is proposed to introduce legislation in order to give legal sanction for the measures to be taken to control effectively the expansion of cultivation of tea in the State. No tea can be exported out of India to any place specified by Government unless it is covered by a licence granted by the Committee constituted under the Indian Tea Control Act, 1938. No land which was not planted with tea on the 31st March 1938 can be planted with tea without the written permission of Government.

Powers of Government relating to control on extension of tea cultivation may be delegated to the Committee. Appeals against the decisions of the Committee will, however, lie with Government.

VII. General Principles of the Bill to amend the Limitation Act.

Article 11 of the Limitation Act provides for the period of limitation for suits to establish one's right to property attached in execution of a decree. The policy of the Act is to secure speedy settlement of questions of title raised in execution proceedings. So, a period of one year is fixed as the time within which such suit is to be brought. But the article as at present worded admits of delay in the disposal of such claim *petitions* as orders are required to be made after "investigation." The term "investigation" has given rise to different interpretations. One view is that "after investigation" means after evidence is recorded and another view that if the case is posted for evidence and dismissed even for default would make the order one passed after investigation though no witnesses have been

examined. Further, claim petitions may be filed without any serious idea of pursuing them or they may be allowed to drag on delaying the passing of orders "after investigation." To avoid these difficulties it is proposed to omit the words "after investigation" in this Article. This will also bring the law into line with that in British India.

VIII. General Principles of the Bill to amend the Mysore Paper Currency Act.

Under the Mysore Paper Currency Act, 1919, a currency note issued under any Indian Paper Currency Act shall be legal tender in the State. Till now currency notes were being issued by the Government of India under the Indian Paper Currency Act. After the establishment of the Reserve Bank of India under the Reserve Bank of India Act, 1934, that Bank has been empowered to issue bank notes in British India and also to issue currency notes of the Government of India supplied to it by the Governor-General in Council. The bank has commenced issuing bank notes and they are in circulation now.

Section 2 of the Mysore Paper Currency Act, 1919, makes only currency notes under the Indian Paper Currency Act for the time being in force in British India to be legal tender. The bank notes of the Reserve Bank would not come under it and they would not be legal tender in Mysore. To make the Reserve Bank notes legal tender in the State, it is necessary to amend the Mysore Paper Currency Act, 1919. As the Reserve Bank notes were already in circulation an amendment of the Mysore Paper Currency Act was passed as an emergency measure. It will have force only for six months. It is now proposed to place the amendment permanently on the statute book.

BANGALORE,
Dated 14th September 1938.

A. SUNDARARAJA RAO,
Secretary,
Mysore Representative Assembly.

WD 403—GPB—600—13-9-38.

NOTIFICATION.

No. L. C.—966, *dated Bangalore, the 7th November* 1938.

Under Rule 8 of the rules for the conduct of business of the Mysore Legislative Council, the accompanying Bill further to amend the Mysore Limitation Act, 1911 is published for general information with the statement of objects and reasons.

By Order,

A. SUNDARARAJA RAO,

Secretary,
Mysore Legislative Council.

Bill further to amend the Mysore Limitation Act, 1911.

Whereas it is expedient further to amend the Mysore Limitation Act, 1911: It is hereby enacted as follows:—

In the first column of Article 11 of the First Schedule to the Mysore Limitation Act, 1911, omit the words "after an investigation of" and substitute the word "on" in their place.

Statement of objects and reasons.

In British India a suit by a person against whom an order has been made under the Code of ~~the~~ Civil Procedure on a claim preferred to or an objection made to the attachment of property attached in execution of a decree is one year from the date of the order, whether the order in question was passed after investigation or not. But in Mysore a difference exists between an order passed after an investigation and an order passed without investigation. In the case of the former the short period of limitation prescribed under Article 11 applies, whereas the usual period of limitation for establishing title to property, *viz.*, 12 years, applies in the case of the latter. From this it is seen that the orders in cases of claims or objections, where there ~~was~~ investigation, became conclusive after

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one year, if no suit was filed to set aside such an order by the unsuccessful party, whereas in the other case, where there was no investigation, the order was not conclusive at all.

A claimant or objector who puts forward his claim or objection and interferes with execution proceedings and then does not take steps to have his claim investigated is in a better position than the one who gets his claim investigated. Very often the claimants will be acting on behalf of the judgment-debtor to impede the progress in the realisation of the decree amount. There is no reason to treat the two claimants differently. In British India both kinds of claimants are treated alike, whether there is any investigation or not. In such a proceeding, the unsuccessful party has to bring a suit within one year from the date of the order. It is now proposed to amend Article 11 of the Limitation Act to bring it on a line with the law in British India and to omit the distinction now existing. It is also convenient that our law should be similar to British India law as far as possible.

(For details of results of experiments conducted, see Table).

2796/37

GOVERNMENT ADVOCATE'S CHAMBERS,
PUBLIC OFFICES,

D. O. No. 339

Bangalore, 8th NOV. *1937.*

GENERAL SECRETARY.
9 NOV. 1937

Dear Sir,

I find from the Statement of General Principles of the Bill to amend the Limitation Regulation as laid before the Representative Assembly in October last, a number of amendments have been suggested inclusive of the one relating to the setting aside of the sale. In regard to this point as well as in regard to many others there was divergence between the British Indian Limitation Act and the Mysore Limitation Regulation. I think the amendments proposed eliminate all these and bring about uniformity which is so very essential especially in matters of procedure and adjectival law at a time when Federation is in the air all round.

2. There are two articles of Limitation for setting aside orders under the Claim Proceedings as well as Delivery proceedings, both of themx summary in nature and intended to speed up ~~the~~ disposal of matter in execution, ~~in~~ namely, proceedings under Order 21, Rule 57, et seq., and Rule 27 et seq., of the Code of Civil Procedure. The final orders in both sets are liable to be set aside in suits instituted for that purpose.

3. The following gives a comparative view of the Articles in question as in force in British India and in Mysore:-

BRITISH INDIA.

British India.			Mysore.		
Description of suit. ...	Period of Limitation. ...	Time from which period begins to run. ...	Description of suit.	Period of Limitation. ...	Time from which period begins to run. ...
1. By a person against whom any of the following orders has been made to establish the right which he claims to the property comprised in the order. (1) Order under the Code of Civil Procedure, 1908, on a claim preferred to or an objection made to the attachment of Property attached in execution of a decree;	One Year.	The date of the order.	11. By a person against whom an order has been made under the Code of Civil Procedure after an investigation of a claim preferred to or an objection made to the attachment of property attached in execution of a Decree to establish the right which he claims to the property comprised in the order.	One Year.	The date of the Order.
* * *					
11-A. By a person against whom an order has been made under the Code of Civil Procedure, 1908, upon an application by the holder of a decree for the possession of immovable property or by the purchaser of such property sol in execution of a decree, complaining of resistence or obstruction to the delivery of possession thereof or upon an application by any person dispossessed of such property in the delivery of possession thereof to the decree-holder or purchaser, to establish the right which he claims to the present possession of the property comprised in the order.	One Year.	The date of the order.	(The wording is the same in Mysore).	One Year.	The date of the order.

Outside Mysore, the period of Limitation in both the two sets of proceedings is the same, but in Mysore a difference is made in one set of proceedings only, viz., in claim cases

Continued.

cases where investigation is made and those where it is - not made while in British India no such difference exists. In other words, in Mysore, in the case of delivery proceedings, irrespective of investigation having been made or not, the period of limitation is one year while in the equally summary claim proceedings where the situation - is exactly similar so far as this point is concerned, a - difference is made on the basis of an investigation having taken place or not.

4. When I perused the file regarding the introduction of the Limitation Regulation in 1911 on some other occasion, I found that the Bill as introduced in the Council in 1911 was on the lines of the British Indian Act - so far as this point was concerned and it was in the Select Committee that a change was made and this divergence brought about. The reason given for the amendment in the Committee stage was that the case law was different. This is literally correct, that is to say, under the old Limitation - Regulation, prior to 1908 in British India and prior to - 1911 in Mysore, the line of demarcation was the investigation, but this line of demarcation cut right across both the delivery proceedings as well as the claim proceedings. It did not stop with the claim proceedings only but extended - to delivery proceedings as well, vide. 12 Mysore Chief Court Reports, 116 at 118, 15 Mysore Chief Court Reports 223 and 5 Mysore Law Reports, 287. - I should think, with the greatest respect to the persons - responsible for the amendment, the reason given was not - substantially right. But, that apart, there is now no - reason to perpetuate the difference and isolate ourselves from the rest of the country in regard to the matter where

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on the weight of the authority and the reason are in favour of the amendment.

5. A good deal of controversy has arisen regarding the exact import of the term "investigation". Some learned Judges say that if the case is posted for evidence and then dismissed for default the order is after investigation - though no witnesses need have been examined or exhibits filed because the order is constructively an order on evidence. - Some Judges says that "after investigation" means after evidence, oral or documentary, is recorded however little it may be. The amendment saves the litigant the trouble of speculating what view a particular court may take on this matter.

6. Another point for consideration in this conext is that if there is really no penalty attached in the way of cutting down the period of limitation for the original suit to set aside the orders in claim cases, unless such orders are - made after investigation, it is likely that claim petitions may be filed without any seriousness of pursuing them till the end or though they may be filed with some earnestness at the - beginning it may be allowed to flag later on, since the only penalty will be costs which may consist of a petty sum anywhere between Rs.2/- and 10/-. Many a time the claimant will be acting on behalf of a Judgment-debtor to impede the progress in the realization of the decretal amount and if this claimant should not be made to suffer in the way of the ordinary period of limitation being cut down, perhaps, claim petitions which may not - have otherwise been filed are being unwittingly encouraged, thus involving waste of valuable time of the Courts.

7. If what is stated is acceptable, then the object can be achieved in either of the two ways mentioned below:-

(a)

GOVERNMENT ADVOCATE'S CHAMBERS,
PUBLIC OFFICES,

D. O. No.

Bangalore,.....193 .

Continued.

5.

(a) The words "after an investigation of" may be omitted and the word "on" inserted in their place,
or better
(b) Both Articles 11 and 11-A may be consolidated into one which may run somewhat as follows:-

For suits under O.21, R.63, and 103, Code of Civil Procedure, 1911,	One Year.	From the date of the order sought to be set aside.

The bifurcation in British India into Articles 11 and 11-A is, I think, due to two reasons - the necessity of provision as mentioned in para 2 of Article 11 which does not exist in Mysore and secondly, certain rulings which held that the article was not applicable to cases under Section 332 of the old Code of Civil Procedure, corresponding to Order 21, Rule 100 of the present Code. There has been no such ruling in Mysore and so this reason also does not exist. This latter alternative simplifies the matter much further.

8. A modification as suggested above may involve some consequential change in Rule 63 of Order 21, C. P.C., as recently altered but this need not go before the Council as the High Court may do the needful in the matter.

9. May I request your kindness to suggest to the Government the desirability of amending the article on the lines mentioned above or in some other way which they may be pleased to deem fit in the circumstances, so as to remove the point of difference mentioned above.

Yours sincerely,

Mudenkattemane Nanjappa

M. Venkatesa Iyengar, Esq., M.A.,
General Secretary to Government,
Bangalore.

H.

B

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Dated, Bangalore, 14th December 193 7

No. P3082/Rev one.

From

The

General Secretary to the Government of His Highness the Maharaja of Mysore.

To

The Registrar,
High Court of Mysore.

Sir,

I am directed to forward herewith copy of letter No.339 dated 8th November 1937 received from the Government Advocate suggesting the amendment of Article 11 of the Limitation Regulation and to request you to favour Government with the views of the Judges of the High Court in the matter.

I have the honor to be,
Sir,
Your most obedient servant,

14.12

for General Secretary to Government.

59

S.R.2

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Appendix F G—1]

SUBJECT .....

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Section

File No.

Serial No.

No. P3082/Simone

Diary No. of letter replied to.....

To

The Registrar Court

Sir,

I am directed to forward herewith for copy of letter No 339 dt 8/11/37 received from the Govt Advocate suggesting the amendment of Art 11 of the limitation Regn. and to request a copy to favour Govt with the views of the Judges of the High Court in the matter.

I have &c.

for H/L

for Secretary

General and Revenue Secretariat

( )

the *193* .

Date of issue 16.12.37

Signed by for D.S.R

Please make a copy

List of enclosures.....

Copied by .....

Examined by.....

WD 0521—GPB—30,000—12-3-37

D.O.Letter No.339 dated 8th November 1937 from Government Advocate, to the General Secretary to Government.

I find from the Statement of General Principles of the Bill to amend the Limitation Regulation as laid before the Representative Assembly in October last, a number of amendments have been suggested inclusive of the one relating to the setting aside of the sale. In regard to this point as well as in regard to many others there was divergence between the British Indian Limitation Act and the Mysore Limitation Regulation. I think the amendments proposed eliminate all these and bring about uniformity which is so very essential specially in matters of procedure and adjectival law at a time when Federation is in the air all round.

2. There are two articles of Limitation for setting aside orders under the Claim Proceedings as well as Delivery preceedings, both of them summary in nature and intended to speed up the disposal of matter in execution namely, proceedings under Order 21, Rule 57, et seq., and Rule 27 et seq., of the Code of Civil Procedure. The final orders in both sets are liable to be set aside in suits instituted for that purpose.

3. The following gives a comparative view of the Articles in question as in force in British India and in Mysore:-

BRITISH INDIA.

7

British India.			Mysore.		
Description of suit	Period of limitation.	Time from which period begins to run.	Description of suit.	Period of Limitation.	Time from which period begins to run.
11. By a person against whom any of the following orders has been made to establish the right which he claims to the property comprised in the order: (1) Order under the Code of Civil Procedure, 1908 on a claim preferred to or an objection made to the attachment of Property attached in execution of a decree;	one year	The date of the order;	11. By a person against whom an order has been made under the Code of Civil Procedure after an investigation of a claim preferred to or an objection made to the attachment of property attached in execution of a Decree to establish the right which he claims to the property comprised in the order.	One Year.	The date of the order.
11-A. By a person against whom an order has been made under the Code of Civil Procedure, 1908, upon an application by the holder of a decree for the possession of immovable property or by the purchaser of such property sol in execution of a decree, complaining of resistence or obstruction to the delivery of possession thereof or upon an applicatior by any person dispossessed of such proper ty in the delivery of possession thereof to the decree-holder purchaser, to establish the right which he claims to the property comprised in the order.	One year.	The date of the order.	(The wording is the same in Mysore)	One Year.	The date of the order.

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Outside Mysore, the period of Limitation in both the two sets of proceedings is the same, but in Mysore a difference is made in one set of proceedings only, viz., in claim cases where investigation is made and those where it is not made while in British India no such difference exists. In other words, in Mysore, in the case of delivery proceedings, irrespective of investigation having been made or not, the period of limitation is one year while in the equally summary claim proceedings where the situation is exactly similar so far as this point is concerned, a difference is made on the basis of an investigation having taken place or not.

4. When I perused the file regarding the introduction of the Limitation Regulation in 1911 on some other occasion, I found that the Bill as introduced in the Council in 1911 was on the lines of the British Indian Act so far as this point was concerned and it was in the Select Committee that a change was made and this divergence brought about. The reason given for the amendment in the Committee stage was that the case law was different. This is literally correct, that is to say, under the old Limitation Regulation, prior to 1908 in British India and prior to 1911 in Mysore, the line of demarcation was the investigation, but this line of demarcation cut right across both the delivery proceedings as well as the claim proceedings. It did not stop with the claim proceedings only, but extended to delivery proceedings as well, vide, 12 Mysore Chief Court Reports, 116 at 118, 15 Mysore Chief Court Reports 223 and

5 Mysore Law Reports, 287. I should think, with the greatest respect to the persons responsible for the amendment, the reason given was not substantially right. But, that apart, there is now no reason to perpetuate the difference and isolate ourselves from the rest of the country in regard to the matter where the weight of the authority and the reason are in favour of the amendment.

5. A good deal of controversy has arisen regarding the exact import of the term "investigation". Some learned Judge say that if the case is posted for evidence and then dismissed for default the order is after investigation though no witnesses need have been examined or exhibits filed because the order is constructively an order on evidence. Some Judges say that "after investigation" means after evidence, oral or documentary is recorded however little it may be. The amendment saves the litigant the trouble of speculating what view a particular court may take.....

6. Another point for consideration in this context is that if there is really no penalty attached in the way of cutting down the period of limitation for the original suit to set aside the orders in claim cases, unless such orders are made after investigation, it is likely that claim petitions may be filed without any seriousness of pursuing them till the end or ~~khkmugh~~ though they may be filed with some earnestness at the beginning it may be allowed to flag later on, since the only penalty will be costs which may consist of a petty sum anywhere between Rs. 2/ and Rs. 10/-. Many a time the claimant will be acting on behalf of a Judgment-debtor to impede the progress in the realization

of the decretal amount and if this claimant should not be made to suffer in the way of the ordinary period of limitation being cut down, perhaps, claim petitions which may not have otherwise been filed are being unwittingly encouraged thus involving waste of valuable time of the Courts.

7. If what is stated is acceptable, then the object can be achieved in either of the two ways mentioned below:-

(a) The words "after an investigation of" may be omitted and the word "on" inserted in their place,

or better

(b) Both Articles 11 and 11-A may be consolidated into one which may run somewhat as follows:-

For suits under O.21 Rs.63, and 103, Code of Civil Procedure 1911.	One Year.	From the date of the order sought to be set aside.

The bifurcation in British India into Articles 11 and 11-A is, I think, due to two reasons - the necessity of provision as mentioned in para 2 of Article 11 which does not exist in Mysore and secondly, certain rulings which held that the article was not applicable to cases under Section 332 of the old Code of Civil Procedure, corresponding to Order 21, Rule 100 of the present Code. There has been no such ruling in Mysore and so this reason also does not exist. This latter alternative simplifies the matter much further.

8. A modification as suggested above may involve some consequential change in Rule 63 of Order 21, C.P.C., as recently altered but this need not go before the Council as

3760/37

R. O. C. D. Dis. No. 662/37-38

HIGH COURT OF MYSORE,
Public Office Buildings, Cubbon Park,
Bangalore, 21st December *1937*

FROM T. Shamiengar, Esq., B.A., B.L.,
~~A. Sundararaja Rao, Esq., B.A., B.L.,~~
Registrar, High Court of Mysore.

To
M. Venkatesa Iyengar, Esq., M.A.,
General Secretary to the Government
of Mysore, Bangalore.

GENERAL SECRETARY 22 DEC. 1937

SIR;

With reference to your letter No.P.3082, dated 14th December 1937, forwarding a copy of letter No.339, dated 8-11-37 received from the Government Advocate suggesting the amendment of Article 11 of the Limitation Regulation and requesting the views of the High Court in the matter, I am directed to request that a copy of the bill with the statements of its general principles may kindly be sent for reference.

I have the honour to be,
Sir,
Your most obedient servant,
T. Shamiengar
Registrar.

VJC

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Appendix F.G—1]

SUBJECT .....

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Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the 193 .

Date of issue 4.1.38

Signed by Dpr. A.S.R.

20 have got from the office Asstt.

List of enclosures.....

Copied by .....

Examined by.....

Section

File No.

Serial No.

No. P3364/Encr

To

The Registrar of

Sir,

With reference to your letter No 662/2 dt 21/12 I am directed to forward herewith copy of the Bill to amend the Limitation Act and the Enactment of some principles placed before the R.A

I have etc

Dpr Secretary

WD 0521—GPB—30,000—12-3-37

4889 P 837

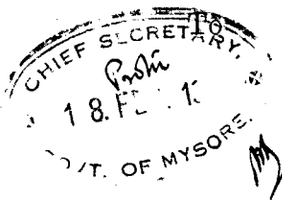
R. O. C. Dis. No. Di Di 213/37-38

HIGH COURT OF MYSORE,
Public Office Buildings, Cubbon Park, 16

Bangalore, 16th February *193* 8

17

FROM T. Shamiengar, Esq., B.A., B.L.,
~~Sundararaja Rao, Esq., B.A., B.L.~~
S. Venkata Ranga Iyengar, Esq., B.A., LL.M.,
Registrar, High Court of Mysore.



B.T. Kesavaiengar, Esq., B.A.,
Chief Secretary to the Government of Mysore,
Bangalore.

SIR,

With reference to your letter No.P.3082, dated 14th December 1937, forwarding a copy of letter No.339, dated 8th November 1937, of the Government Advocate suggesting amendment of Articles 11 and 11A of the Limitation Act and requesting the views of the Judges of the High Court in the matter, I am directed to state that the Judges generally agree with the Government Advocate's proposals regarding the amendment of those Articles. Of the alternative suggestions made by the Government Advocate the majority of the Judges are of opinion that the combination of Articles 11 and 11A is preferable; but it does not appear convenient to refer in an Article of the Limitation Act to rules in Schedule I of the Code of Civil Procedure, which can be altered by the High Court with the sanction of the Government. The two articles could be combined by the use of appropriate language without referring to any particular rule of Schedule I of the Code.

2. I am to add that Mr. Justice Shankaranarayana Rao has expressed the opinion that it would be convenient to follow the numbering and wording of the Articles in Schedule I of the British Indian Limitation Act as closely as possible in the Mysore Limitation Act.

I have the honour to be,

Sir,

Your most obedient servant,

T. Shamiengar
Registrar.

VJC

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G. R. S. VI.—s-III/14]

DRAFT.

SUBJECT.....

.....

.....

Section. Legis
File No. 28 of 38
Serial No. 1

Proceedings of the Government of H. H. the Maharaja of Mysore.

Diary No. of letter replied to.....

Order No. P 4369/Legis 1

GENERAL AND REVENUE SECRETARIAT,
( )
, the.....*191* .

Ordered that the accompanying Act further to amend the Mysore Limitation Act, 1911

which received the assent of His Highness the Maharaja, on the Seventh day of February 1939, be published as ~~Regulation~~ Act No. II of 1939, in the *Mysore Gazette* for general information.

Date of issue 14/2/39

Signed by Mr. K. S.

12.2.39
General *Secretary to Government.*

May this be—

(i) Printed?

(ii) Treated as a standing order?

(iii) Published in the "Gazette" English part?

(iv) Translated?

(v) Placed at the disposal of the Press?

(vi) Published in the "Gazette" Kannada part?

To

The Compiler, *Mysore Gazette*, for publication in Part III of the Gazette, in English and Kannada and for supply of .....spare copies in English, and .....~~spare copies~~ in Kannada ~~to this office, and~~.....~~spare copies in English and~~.....~~spare copies in Kannada to the Curator, Government Central Book Depot, Bangalore.~~ Proofs should be sent to this office for approval before publication. as per standing orde

Copy to translation section.

Draft II

18

NOTIFICATION.

No. L. C.—966, *dated Bangalore, the 7th November* 1938.

Under Rule 8 of the rules for the conduct of business of the Mysore Legislative Council, the accompanying Bill further to amend the Mysore Limitation Act, 1911 is published for general information with the statement of objects and reasons.

By Order,

A. SUNDARARAJA RAO,

Secretary,

Mysore Legislative Council.

Act II of 1939

(Received the assent of His Highness the Maharaja on the Seventh day of February 1939

An Act ~~Bill~~ further to amend the Mysore Limitation Act, 1911.

Whereas it is expedient further to amend the Mysore Limitation Act, 1911: It is hereby enacted as follows:—

In the first column of Article 11 of the First Schedule to the Mysore Limitation Act, 1911, omit the words "after an investigation of" and substitute the word "on" in their place.

Amendment of article 11 of the First Schedule to Act IV of 1911

Statement of objects and reasons.

In British India a suit by a person against whom an order has been made under the Code of the Civil Procedure on a claim preferred to or an objection made to the attachment of property attached in execution of a decree is one year from the date of the order whether the order in question was passed after investigation or not. But in Mysore a difference exists between an order passed after an investigation and an order passed without investigation. In the case of the former the short period of limitation prescribed under Article 11 applies whereas the usual period of limitation for establishing title to property, *viz.*, 12 years applies in the case of the latter. From this it is seen that the orders in cases of claims or objections, where there was investigation, became conclusive after

one year, if no suit was filed to set aside such an order by the unsuccessful party whereas in the other case, where there was no investigation, the order was not conclusive at all.

A claimant or objector who puts forward his claim or objection and interferes with execution proceedings and then does not take step to have his claim investigated is in a better position than the one who gets his claim investigated. Very often the claimants will be acting on behalf of the judgment-debtor to impede the progress in the realisation of the decree amount. There is no reason to treat the two claimants differently. In British India both kinds of claimants are treated alike, whether there is any investigation or not. In such a proceeding, the unsuccessful party has to bring a suit within one year from the date of the order. It is now proposed to amend Article 11 of the Limitation Act to bring it on a line with the law in British India and to omit the distinction now existing. It is also convenient that our law should be similar to British India law as far as possible.

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE.

Read :—

O R D E R NO.

Dated, Bangalore, the 14th February 1939.

Ordered that the accompanying Act further to amend the Mysore Limitation Act, 1911 which received the assent of His Highness the Maharaja, on the Seventh day of February 1939, be published as Act No.II of 1939, in the Mysore Gazette for general information.

General Secretary to Government.

To

The Compiler, Mysore Gazette, for publication in Part III of the Gazette, in English and Kannada and for supply of spare copies in English and in Kannada as per standing orders. Proofs should be sent to this office for approval before publication.

MK.4

19

NOTIFICATION.

Order No. P. 4369—*Legis.* 28-38-1, *dated Bangalore, the* 14*th February* 1939.

Ordered that the accompanying Act further to amend the Mysore Limitation Act, 1911, which received the assent of His Highness the Maharaja, on the seventh day of February 1939, be published as Act No. II of 1939, in the *Mysore Gazette* for general information.

K. SUBBA RAO,
General Secretary to Government.

ACT II OF 1939.

(*Received the assent of His Highness the Maharaja on the seventh day of February* 1939.)

An Act further to amend the Mysore Limitation Act, 1911.

Whereas it is expedient further to amend the Mysore Limitation Act, 1911; It is hereby enacted as follows:—

Amendment of Article 11 of First Schedule to Act IV of 1911

In the first column of Article 11 of the First Schedule to the Mysore Limitation Act, 1911, omit the words "after an investigation of" and substitute the word "on" in their place.

MIRZA M. ISMAIL,
Dewan.

Price 0–0–3.

Printed by the Superintendent at the Government Press, Bangalore.